

Board Administration and Regulatory Coordination Unit

Division 3. Air Resources Board

Chapter 1. Air Resources Board

Subchapter 3.6. Air Toxics "Hot Spots" Fee Regulation

Article 2. Applicability

§ 90702. Facilities Covered.

(a) Except for facilities exempted by Health and Safety Code Section 44324, 44344.4(a), or 44380.1 this regulation applies to any facility which:

(1) manufactures, formulates, uses, or releases any of the substances listed by the State Board pursuant to Health and Safety Code Section 44321 and contained in Appendix A of the Guidelines Report, or any other substance which reacts to form a substance so listed, and releases 10 tons per year or greater of any criteria pollutant, or

(2) is listed in any current toxics use or toxics air emission survey, inventory, or report released or compiled by an air pollution control district and referenced in Appendix A, or

(3) manufactures, formulates, uses or releases any listed substance or any other substance which reacts to form any listed substance, and which releases less than 10 tons per year of each criteria pollutant and falls in any class listed in Appendix E of the Guidelines Report, or

(4) is reinstated under Health and Safety Code Section 44344.7.

(b) On or before July 1 of the applicable fiscal year, each district shall provide to the State Board a list of facilities meeting any one or more of the criteria specified in subdivision (c) and (d) of this section. The list of facilities shall include the facility's name, identification number, and documentation of the exemption or exemptions any facility qualifies for under this section.

(c) A facility shall be excluded from the calculation of the distribution of the State's cost specified in Section 90703(a) if by July 1 of the applicable fiscal year, any one or more of the following criteria is met:

(1) the facility has been prioritized by its district in accordance with Health and Safety Code Section 44360(a) using procedures that have undergone public review and that are consistent with the procedures presented in the California Air Pollution Control Officers Association (CAPCOA) "Air Toxics 'Hot Spots' Program Facility Prioritization Guidelines, July 1990", which has been approved by the State Board and which is incorporated by reference herein, and the facility's prioritization score is less than or equal to 10.0 for cancer health effects and is less than or equal to 10.0 for non-cancer health effects.

(2) the facility has had its health risk assessment approved by the district in accordance with Health and Safety Code Section 44362 and the risk assessment results show a total potential cancer risk, summed across all pathways of exposure and all compounds, of less than one case per one million persons and a total hazard index for each toxicological endpoint, both acute and chronic, of less than 0.1. Some appropriate procedures for determining potential cancer risk and total hazard index are presented in the CAPCOA "Air Toxics 'Hot Spots' Program Revised 1992 Risk Assessment Guidelines, October 1993", which is incorporated by reference herein.

(3) the facility primarily performs printing as described by SIC Codes 2711 through 2771 or 2782, and the facility uses an annualized average of two gallons per day or less (or 17 pounds per day or less) of all graphic arts materials (deducting the amount of any water or acetone) unless a district required a health risk assessment and results show the facility would not qualify under Section 90702(c)(2).

(4) the facility is a wastewater treatment plant as described by SIC Code 4952, the facility does not have a sludge incinerator and the maximum throughput at the facility does not exceed 10,000,000 gallons per day unless a district required a health risk assessment and results show the facility would not qualify under Section 90702(c)(2).

(5) the facility is a crematorium for humans, animals, or pets as described by SIC Code 7261 or any SIC Code that describes a facility using an incinerator to burn biomedical waste (animals), the facility uses propane or natural gas as fuel, and the facility annually cremates no more than 300 cases (human) or 43,200 pounds (human or animal) unless a district required a health risk assessment and results show the facility would not qualify under Section 90702(c)(2). Facilities using incinerators that burn biomedical waste other than cremating animals do not qualify for this exemption.

(6) the facility is primarily a boat building and repair facility or primarily a ship building and repair facility as described by SIC Codes 3731 or 3732, and the facility uses 20 gallons per year or less of coatings or is a coating operation using hand held nonrefillable aerosol cans only unless a district required a health risk assessment and results show the facility would not qualify under Section 90702(c)(2).

(7) the facility is a hospital or veterinary clinic building that is in compliance with the control requirements specified in the Ethylene Oxide Control Measure for Sterilizers and Aerators, section 93108 of this title, and has an

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annual usage of ethylene oxide of less than 100 pounds per year if it is housed in a single story building, or has an annual usage of ethylene oxide of less than 600 pounds per year if it is housed in a multi-story building unless a district required a health risk assessment and results show the facility would not qualify under Section 90702(c)(2).

(8) the facility was not required to conduct a risk assessment under Health and Safety Code Section 44360(b), and the district, or the facility with the concurrence of the district, has conducted a worst-case, health conservative risk assessment using screening air dispersion modeling criteria set forth in Appendix F of the Guidelines Report and has demonstrated to the satisfaction of the district that the facility's screening risk levels meet the criteria set forth in Section 90702(c)(2).

(d) A facility shall be excluded from the fee schedule calculated in accordance with Section 90704(d)-(g) and from the fee schedule set forth in Table 3 for the applicable fiscal year if (1) it qualifies for exclusion pursuant to subdivision (c) of this section, (2) it is located in a district which has met the requirements of section 90704(c) and (3) the district has requested State Board adoption of a fee schedule. Exclusion from fee schedules under this subdivision does not exempt a facility from any other applicable requirement under this title.

NOTE: Authority cited: Sections 39600, 39601, 44321, 44344.4, 44344.7 and 44380, Health and Safety Code. Reference: Sections 44320, 44321, 44322, 44344.4, 44344.7 and 44380, Health and Safety Code.

REFERENCE